

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	3.3.02
PROCEDURES MANUAL		ISSUE DATE	August 18, 2000
SUBJECT	Numbering and Encoding - Enforcement Action	Section	Enforcement
		Last Revised	3-12-97

OBJECTIVE AND INTENT:

To ensure the Field Inspector and Supervisor consistently utilize the automated coding and numbering system on Inspection Reports, Notices of Violations, Cessation Orders, and subsequent actions.

PROCEDURES:

Numbering and Coding:

The Division has established “**performance standard codes**” (PSC) to identify specific areas of inspection. The individual codes are provided on the “Inspection Report” form (**DMLR-ENF-044S**) and pertain to specific regulatory and statutory requirements which the Inspector monitors (see **Civil Penalty Assessment Manual** - appendix).

PERFORMANCE STANDARD CODES (PSC)				
Code	Description		Code	Description
AC	Approximate original contour		MN	Mining within 100' - 300' zones
AO	Authorization to operate		MP	Mining without permit
AT	Acid/toxic material		OT	Other (e.g. liability insurance)
BL	Blasting		RT	Reclamation Tax/Pool Bond Fund
BR	Backfilling & Regrading		RV	Revegetation
BZ	Buffer Zones		SC	Subsidence Control
DS	Disposal of Spoil/Refuse/etc.		SD	Spoil on the Downslope
EF	Effluent standards		SL	Sealing wells/adits/drill holes
EP	Exceeding Permit boundary		SM	Signs & Markers
HE	Highwall elimination		SS	Sediment/drainage control structure
HR	Haulroad/access road		TS	Topsoil
			WM	Water monitoring

Inspection Reports - When reporting the inspection findings, the Inspector shall identify the applicable performance standard codes investigated on the inspection report form.

Notices of Violation (NOV) and Cessation Order (CO) - The NOV and CO numbers are automatically selected by the Enforcement Laptop system by assigning consecutive numbers to each action taken by the Inspector/Supervisor. The numbers are prefaced with the Inspector’s/Supervisor’s initials.

Each NOV or CO form can cite more than 1 violation. However, each violation is considered a separate NOV or CO.

If a **failure to abate Cessation Order** is issued for the permittee’s failure to comply with the underlying NOV, the CO must reference the NOV number.

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Multiple Violations and NOV/CO Continuation Sheets :

The Inspector or Supervisor will specifically address each violation by PSC.

If the Inspector cites the permittee for 3 separate violations under a NOV or CO, the violation detail screen would be numbered 1 of 3, 2 of 3, and 3 of 3 respectively. The appropriate performance standard code would be noted on the NOV/CO cover and violation detail screens.

The DMLR Enforcement System (data management) recognizes only one application of a specific performance standard code per NOV or CO number. It is possible that the Inspector may need to cite several different regulatory violations under the same performance standard code. To ensure proper and accurate tracking of each violation, the Inspector would have to issue a separate NOV sequential number for each violation of the same code, for example:

- the Inspector would not group all of the following violations into one violation of a NOV, since each is distinct and separate. The Inspector’s laptop will generate a separate NOV/CO number to each violation.

Performance Standard Code - AO NOV # XYZ000001 <u>AO</u> (mining within 500 feet) NOV # XYZ000002 <u>AO</u> (auger operations prohibited) NOV # XYZ000003 <u>AO</u> (woody materials in backfill)
a) Mining within 500 feet of an underground mine without approval (4 VAC 25-130-816.79).
b) Conducting auger operations after such is prohibited by the Division (4 VAC 25-130-819.11).
c) Burying woody materials in the backfill without prior approval (4 VAC 25-130-816.107 or 4 VAC 25-130-817.107).

If the Inspector cites several violations of the same regulation, those violations will be grouped into one violation on the NOV/CO.

Example #1 The Inspector found that on four ponds the discharge of each failed to meet the applicable effluent standard limits. Instead of issuing four separate violations, the Inspector would issue one which would probably state “Discharges of ponds #1-4 exceeds the effluent limits as set forth in 4 VAC 25-130-816.42.”

Performance Standard Code - EF
NOV # XYZ000004 EF (Ponds 1-4 failed to meet effluent standards)

Example #2 The Inspector may cite several violations concerning a fill’s construction under 4 VAC 25-130-816.71. The Inspector would address each of the items under one

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violation of the NOV or CO. The description of the violation and remedial measure(s) set forth under the NOV or CO would specifically identify each problem and establish the necessary steps required to correct each deficiency under the regulation.

Performance Standard Code - DS

NOV # XYZ000005 DS (Failure to construct fill as per plans)

- a) Failure to dispose spoil in designated spoil disposal area (4 VAC 25-130-816.71(a)).
- b) Failure to remove and properly handle vegetative material and topsoil (4 VAC 25-130-816.71(e)).
- c) Failure to transport and place spoil in a controlled manner (4 VAC 25-130-816.71(e)(2)).

Modification, Vacation or Termination of Notice of Order - The modification, termination, or vacation of each violation (as identified by the specific performance standard code) cited in a NOV or CO will be completed on form **DMLR-ENF-047S**.

When completing this form, the Inspector shall:

- show activity on only one violation (performance standard code) at a time. Therefore, if a NOV or CO contained three violations, a separate **DMLR-ENF-047S** must be completed when reporting action on each separate violation/performance standard code.
- place the applicable performance standard code and violation activity code in the space provided in the violation activity screen. The performance standard code must be the same as shown on the original NOV or CO.
- in addition to identifying the specific performance standard code that the Inspector is reporting on, the original NOV or CO number will be added to the form. The specific violation number (_ of _) must be shown on the form.